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Second Session

SECOND COMMITTEE

PROVISIONAL SUMMARY RECORD OF THE [illegible] MEETING

Held at the Parque Central, Caracas,
on Wednesday, 14 August 1974, at 10.45 a.m.

Chairman: Mr. AGUILAR Venezuela

Rapporteur: Mr. NANDAN Fiji

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REGIME OF ISLANDS (A/9021; A/CONF.62/C.2/L.18, L.22, L.30, L.43, L.53, L.55 and L.58) (continued)

Mr. KIAER (Denmark) said that the Geneva Conventions of 1958 contained two articles of special importance for the question of islands, namely article 10 of the Convention on the Territorial Sea and the Contiguous Zone and article 1 (b) of the Convention on the Continental Shelf. His delegation was glad to see that the principles embodied in those articles were faithfully reflected in paragraphs 1, 2 and 3 of document A/CONF.62/C.2/L.30 for the following reasons.

If an island was an independent State, it should not be in a less favourable position than a continental State, and, if an island had not yet achieved its independence, it should be accorded the same treatment as other islands in order not to prejudice its rights when it became independent.

Furthermore, the special economic and social characteristics of islands must be taken into account because their populations were frequently isolated and had few alternative employment opportunities. Accordingly, at least the same rights should be granted to islands as to continental territories.

The delimitation of island ocean space or sea-bed area in the case of adjacent or opposite States should continue to be based, generally speaking, on the clear-cut equidistance principle. His delegation therefore supported the provisions on that subject contained in documents A/CONF.62/C.2/L.25 and L.31.

If the Conference decided to grant coastal States extensive rights in the form of broad exclusive economic zones, then consideration should be given to what extent, if at all, those zones could be claimed on the basis of the possession of islets and rocks which offered no real possibility for economic life and were situated far from the continental land mass. If such islets and rocks were to be given full ocean space, it might mean that the access of other countries to the exploitation of the living resources in what was at present the open sea would be curtailed and that the area of the sea-bed falling under the proposed international authority would also be reduced.

Mr. RABAZA (Cuba) said that the fourth Summit Conference of the Heads of State and Government of the Non-Aligned Countries, held at Algiers in September 1973, had noted the resolution approved by the United Nations Committee on Decolonization in

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(Mr. Rabaza, Cuba)

August 1973 reaffirming the inalienable right of the Puerto Rican people to self-determination and independence, in accordance with United Nations General Assembly resolution 1514 (XV), and had adopted resolution 12, calling upon the United States Government to desist from any measures that might prevent the Puerto Rican people from exercising freely and fully their inalienable right to self-determination and independence, as well as their economic and social rights. The resolution particularly urged that there should be no violation of those rights by corporate bodies under United States jurisdiction. Moreover, it called upon the Committee on Decolonization and other competent bodies to accelerate and intensify measures designed to assist the people of Puerto Rico in attaining its sovereignty and independence, and in recovering its national heritage.

The Organization of African Unity had always concerned itself with the position of countries under colonial domination. The relevant proposals had been contained in its Declaration on the Issues of the Law of the Sea (A/CONF.62/33), proclaimed at Addis Ababa in 1973 and reaffirmed at Mogadishu in 1974, under which the right of coastal States to establish an exclusive economic zone of 200 miles, in which they would exercise permanent sovereignty over all the living and non-living resources of the sea, was recognized. That in no way implied, however, a recognition of the rights of territories under colonial, foreign or racist domination. The document on the economic zone recently submitted by a group of socialist countries also referred to that problem. Furthermore, the draft articles (A/CONF.62/C.2/L.36) submitted by Jamaica excluded associated States, self-governing territories and territories under foreign domination from enjoying rights in the economic zone other than those to be conferred on the inhabitants of such territories for the purpose of their domestic needs. The existing situation would naturally disappear when the territories concerned had attained full independence.

The delegation of the United States had circulated charts illustrating the catastrophic pollution originating in highly developed countries that was borne by marine currents to contaminate developing countries. One chart showed a dramatic division of the ocean into lots, which allocated, intentionally or inadvertently, the 200-mile economic zone of Puerto Rico to the United States. The Conference of Non-Aligned Countries had urged restoration of the national heritage of that island,

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(Mr. Rabaza, Cuba)

which, after 76 years, had not assimilated the "American way of life". Moreover, the report of the Committee on Decolonization calling for free or associated State status for Puerto Rico had obtained an overwhelming majority in the United States General Assembly.

The States represented at the Conference on the Law of the Sea should, as an honourable compromise, oppose the flagrant despoliation of that island's rich resources in the sea-bed and its subsoil pending its attainment of full independence.

His delegation wished to refer to the draft article (A/CONF.62/C.2/L.42) proposed by Mexico, which provided that no State could construct or erect military installations or appliances on the continental shelf of another State without the latter's consent.

The United States Government, flouting the will of the revolutionary Government and people of Cuba, maintained the naval base of Guantanamo, like a dagger threatening the country's sovereignty. The United States also controlled both shores of the bay and a rectangle of water extending to a distance of three miles into the high seas, which was currently the breadth of Cuba's territorial sea. The usurped areas were an inalienable part of Cuba, over which it would never renounce its claim to sovereignty.

The draft article submitted by Mexico met the requirements of a coastal State for the exercise of its sovereignty over the continental shelf. Nevertheless, it would be necessary similarly to safeguard the interests of States whose land or sea areas were wholly or partially under foreign occupation, and to prohibit the emplacement of military installations and appliances thereon.

Mr. CORI (Colombia) said that, according to the evidence before the Committee so far, an island was a separate entity, with its own régime, but was at the same time a component part of another entity called an archipelago. In turn, an archipelago was also a separate entity, which could or should have its own régime, and was at the same time a component of another separate entity -- the archipelagic State.

On the previous day the trend had been to recognize the archipelagic State as a new entity with its own independent characteristics, and to create a special régime of privileges and duties for it. At the same time there had been a tendency to disregard the archipelago whether coastal or outlying as a separate entity and to deny it a separate régime. In the opinion of some representatives islands did not cease to be islands even if they constituted a group and had links which made them a definite unit,

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(Mr. Gori, Colombia)

unless they were the seat of a Government. His delegation agreed that the law of the sea should recognize the new concept of archipelagic States and accord them a special status. On the other hand even if it admitted the existence of such States his delegation could not agree to the disappearance of the entity known as "an archipelago"; that would be contradictory, since the concept of an archipelagic State was based on that of an archipelago. Since an archipelagic State claimed a special régime, by the same token a coastal State which exercised sovereignty over one or more archipelagos could claim an equivalent régime for those archipelagos. That was the position his delegation would maintain.

On the question of islands, the Committee had before it only the same definition as that given in the Geneva Convention, which was a broad and generic definition embracing such clearly different land formations as islands, islets, keys, reefs, etc.

What purpose could such a definition serve in terms of the law of the sea? In other words what significance did such a definition, ranging from an island State to a rocky headland, possess? Could all those formations conceivably be granted the same maritime space, and to the same extent, as appeared to be claimed for them?

Even at the Geneva Conference the comment had been made that by that reasoning, a tiny island no larger than a pin-head, close to the African coast, could annex a large part of the Atlantic as its continental shelf. Logically, and in geographical terms, it would mean that any minor elevation could call itself an island. That trend of thinking, dating back to the Geneva Conference, was reflected in a number of proposals at the meeting, sponsored, for example, by Cameroon, Kenya, Tunisia and Turkey (original reference A/AC.138/SC.II/L.43). There might perhaps be a case for establishing an organ to examine and evaluate the various "island" situations and decide how they should be treated, the logical criterion being to assign maritime space on the basis of absolute equity.

The choice was either to accept that criterion or to amend radically the Geneva definition; in other words either to define what was meant by "island", in the context of the Convention, or to create specific categories of islands, which could be accorded appropriate maritime space. In any case, the new law of the sea should dispel the uncertainty bequeathed by the Geneva definition.

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(Mr. Gori, Colombia)

Another point which required clarification: since the concept of "special circumstances" had been introduced, the presence of an island in the maritime area to be delimited had always been cited as an example of "special circumstances". In principle, the presence of an island was a typical case of special circumstances, which could affect the application of the equidistance principle. However, the existing Conventions shed no light on the question. His delegation thought that the question should be clarified, and concrete guidance be given as to the potential effects of a "special circumstance", after it had been properly recognized as such.

A detailed study of those points could lead to a concrete formulation of what was apparently already accepted State practice: treatment of an island as a separate entity having important functions, which must fulfil certain specific requirements. The island, as a component part of other entities, was or could be a less demanding concept. Thus, an archipelago which, according to texts proposed and under discussion, was composed of islands, could, in fact, consist of islands properly so-called; however, it might also consist of other land formations such as islets, keys, or even reefs, provided they fulfilled conditions which made them economically active and politically cohesive so that they could be regarded intrinsically as a unit.

In the light of those considerations, the existing Geneva definition of islands should be clarified and refined. His delegation reserved the right to revert to some of the points raised, should the occasion arise.

Mr. SLADE (Western Samoa) said that his delegation fully endorsed the explanations given by the representative of New Zealand when introducing document A/CONF.62/C.2/L.30 at the preceding meeting.

In one sense, document A/CONF.62/C.2/L.30 was not innovative: its basic provisions were inspired by article 1 of the Convention on the Continental Shelf and article 10 of the Convention on the Territorial Sea and the Contiguous Zone. The same was not true of part B, in which for the first time a fair solution was provided for the special problems of those territories which had not yet attained full independence. His delegation considered that the resources in the economic zones of such territories must be preserved and was therefore heartened to see that part B of that document had been reflected as a main trend in Informal Working Paper No. 4.

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(Mr. Slade, Western Samoa)

The four sponsors of document A/CONF.62/C.2/L.30 were all States situated in the South Pacific, and their proposal reflected the problems and concerns characteristic of the region, as well as their ideas concerning the régime of islands in general. They had attempted to deal with the subject in a way which would not prejudice the interests of neighbouring countries. They were aware of the opposition expressed by some delegations to the idea of allocating a full area of ocean space to all islands, but they were anxious to avoid the inequities that could arise from a categorical delimitation of ocean space without due regard for the peculiar features and circumstances of oceanic islands. He wished to endorse the lucid arguments on that point presented by the representative of New Zealand.

Western Samoa was an island State in the South Pacific and comprised 10 separate islands, all of which were situated within its territorial limits. It therefore foresaw no great difficulties in its own case in respect of the allocation of ocean space. However, it sincerely believed that there were certain special factors that required careful consideration before any arbitrarily exclusive rule was introduced.

His delegation had already explained in plenary and in the Second Committee why Western Samoa was so heavily dependent on the surrounding sea and its resources. It followed that his delegation fully supported articles 2 and 3 of document A/CONF.62/C.2/L.30, which provided that the territorial sea and economic zone of an island should be measured and determined in accordance with the provisions applicable to other land territory. For an island State such as his own, a rule of that kind was essential and must be included in the future convention. His delegation had therefore been reassured by the statements of a number of delegations to the effect that they did not think such a rule should present any difficulties.

The provisions in A/CONF.62/C.2/L.30 had no bearing on islands making up an archipelagic State, on archipelagos lying off a coastal State or on a fringe of islands in the immediate vicinity of a coast.

His delegation had sponsored document A/CONF.62/C.2/L.30 partly out of a desire to focus attention on the régime of islands, but more especially to highlight the circumstances and expectations of an island State in the South Pacific. It was only by discussing and understanding the aspirations and interests of all nations and regions that the Conference could hope to achieve a successful conclusion.

Mr. SAULESCU (Romania) said that the question of islands had to be considered within the new parameters of the enlarged 12-mile territorial sea, the 200-mile economic zone, and the concept of the common heritage of mankind. The régime established for islands would be a contributing factor in determining the extent of the international area in which coastal and land-locked States had an equal interest. The tremendous diversity among islands with regard to size, geographical situation, and economic and social importance gave some idea of the complexity of the problem for which generalized solutions along the lines of those adopted at the 1958 Geneva Conference would no longer be adequate.

The practice of States, customary law, and international legal theory demonstrated widespread agreement on the need to distinguish clearly between islets and rocks on the one hand and islands proper on the other. Subjecting all types of islands to a single régime would produce unjust and inequitable results. Thus it was only natural that the Conference should establish a separate régime for the islets category and his delegation had prepared appropriate draft articles for that purpose in document A/CONF.62/C.2/L.53 which he was now introducing.

With regard to the definitions in article 1, the two criteria of area and economic and social viability should suffice to exclude certain elevations of land from the category of island. However his delegation was receptive to any other criteria which might be proposed.

The main purpose of articles 2 and 3 setting out the principal elements of a régime applicable to islets was to prevent any State from encroaching upon the marine zones of another State or the international area by invoking the existence of islets or islands similar to islets in one of its marine zones.

With regard to islets in close proximity to the coastal State to which they belonged, the solution proposed by his delegation was not new and had already been reflected in various texts proposed during consideration of the item on the territorial sea. His delegation considered that if such elevations of land were to be included within the baselines of the coastal State, they should be linked in some way with the continent or main territory and be situated in close proximity to the coast. Islets which were situated within the territorial sea of the main territory were already sufficiently protected by the fact that they were surrounded by waters under the

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(Mr. Saulescu, Romania)

complete sovereignty of the coastal State, and supplementary provisions were not necessary. In the case of islets situated near the outer limit of the territorial sea of the coastal State, the latter could extend its territorial waters seaward or establish an additional marine zone for the protection of lighthouses or other installations on condition that such action did not affect the marine space of neighbouring States.

With regard to islets situated beyond the territorial sea, on the continental shelf or in the economic zone of the same State, they were obviously not entitled to continental shelves or economic zones of their own. However his delegation's draft articles provided the coastal State with the possibility of establishing security zones or even a territorial sea in so far as that was not prejudicial to the marine spaces of other States. For islets situated near the outer limit of the continental shelf or the economic zone, his delegation proposed that the breadth of the security zone or territorial waters of such islets be established by agreement with neighbouring States or between the coastal State and the authority entrusted with managing the international area.

The marine space of islets situated within the territorial sea or economic zone or on part of the continental shelf of another State should be determined by agreement between the States concerned or by any other method of peaceful settlement used in international practice.

The inclusion of such provisions in the future convention would facilitate the resolution of the numerous and complex problems which arose in practice, especially with regard to the delimitation of marine space between neighbouring States.

Mr. TUPOU (Tonga) said that, as an island State consisting of 150 islands in the South Pacific, Tonga attached great importance to the present item. His delegation was grateful for the assurances given by some delegations that the island States would be entitled to the same area of ocean space as continental territories on the principle of State sovereignty. However, he wished to emphasize that, in accordance with the principle of indivisibility of State sovereignty, all islands comprising the State must be treated alike and should have the same ocean space as other territories.

His delegation had already made reference to document A/CONF.62/C.2/L.30 - of which

(Mr. Tupou, Tonga)

it was a sponsor - during the debate on the exclusive economic zone. However, there were two points that he wished to emphasize:

The sponsors of document A/CONF.62/C.2/L.30 had deemed it appropriate to make part B applicable to land territory as well as to insular territory. He pointed out that a number of islands in the Pacific Ocean had not yet attained full independence. The needs of the people in such territories for ocean space and resources were just as acute as the needs experienced by the populations in fully-fledged States. Provided therefore that the resources of their ocean spaces were used solely for the benefit of their peoples and were not taken away by the metropolitan Power, his delegation saw no reason why such territories should not have the same area of ocean space as that accorded to States. That approach did not, he believed, conflict with the relevant principle in the Declaration of the Organization of African Unity or with article XI of document A/AC.138/SC.II/L.40, submitted by 14 African States.

Part A of document A/CONF.62/C.2/L.30 constituted a natural extension of the 1958 Conventions on the Territorial Sea and the Contiguous Zone and on the Continental Shelf.

A small mid-ocean island State, such as Tonga, with little land territory and few resources, would consider inequitable any arrangement whereby islands were not given the same economic zones as continental territories. The 1958 Conventions had recognized the right of islands to receive the same treatment as continental land masses in respect of ocean space. He therefore wished to commend to the Committee the paragraphs in part A of document A/CONF.62/C.2/L.30, which were intended to be without prejudice to the question of delimitation.

Mr. BALLAH (Trinidad and Tobago) said that in the Sea-Bed Committee, his delegation had rejected proposals aimed at establishing a régime that sought to curtail the jurisdiction and sovereignty of islands over the ocean space adjacent to their coasts and was therefore discriminatory. His delegation had always had strong reservations regarding the inclusion of the item under discussion in the list of subjects and issues. Item 19 was a compromise and discussions on it must be restricted to islands under colonial dependence or foreign domination or control and other related matters. General solutions for delimitation problems between islands and other territories, whether they were insular or continental, and general criteria for the

(Mr. Ballah, Trinidad and Tobago)

delimitation of the ocean space of islands should not be discussed under that item. The only relevant question was whether islands under colonial dependence or foreign domination or control were entitled to the breadth of territorial sea, exclusive economic zone, continental shelf rights and the jurisdiction to be established by the Conference in a new treaty on the law of the sea. His delegation believed that they were entitled to those rights and that, accordingly, the Conference should confer on such islands the same rights and benefits as it accorded to other territories or States. In the meantime, the United Nations had the obligation to expedite the decolonization of those islands, thus giving effect to the inalienable rights of colonized peoples to self-determination.

The very title of the item - "Islands under colonial dependence or foreign domination or control" - discriminated against islands. Were there no continental territories that were still under colonial dependence or foreign domination or control? His delegation doubted that the proponents of the item intended to suggest that continental territories under the domination or control of metropolitan Powers should be treated differently from islands in a similar situation. The item should have been entitled "Territories under colonial dependence or foreign domination or control".

His delegation acknowledged the complexity of the problems involved in the question of the delimitation of the ocean space between opposite and adjacent territories, whether continental or insular. It appreciated the difficulties encountered by the many States that were desirous of finding a peaceful solution to those problems, which were certainly more acute for territories that were in, or bordered on, enclosed or semi-enclosed seas than for other territories. However, no solution - even partial - was to be found in the curtailment of the ocean space jurisdiction of territories under colonial dependence or foreign domination. If such a curtailment took place, his delegation wondered what the situation would be after a colonial territory had attained its independence. Would an adjacent or opposite State then reduce the area of its jurisdiction in order to accommodate equitably the rights and interests of the newly independent State with respect to ocean space? His delegation very much doubted that it would.

(Mr. Ballah, Trinidad and Tobago)

A real problem still existed for those territories still under colonial or foreign domination, particularly those that were islands whose population pressures forced them to depend to a large extent on the sea for their nutritional needs, recreation and economic development. The Associated States and other colonial territories of the Caribbean, although not yet fully independent, were self-governing entities responsible for the welfare of their peoples. They were legitimately entitled to the same rights and benefits in ocean space as were to be accorded to continental States in any new treaty on the law of the sea. His delegation would strongly oppose any attempt to discriminate against island territories. The Conference must establish no régime for islands that was prejudicial to their interests. On the contrary, islands should be given more favourable treatment than continental land masses with respect to their jurisdiction over ocean space.

His delegation was not referring to uninhabited rocks and cays in the middle of the seas and oceans that were under foreign domination or control. Those rocks and cays were to be treated differently. Trinidad and Tobago supported the definition of islands contained in documents A/CONF.62/C.2/L.30 and L.50. On the other hand, it found the definition of islets in the Romanian proposal (A/CONF.62/C.2/L.53) quite arbitrary; it did not say at what point an island similar to an islet would be distinguished from an island. On the other hand the proposals in document A/CONF.62/C.2/L.30, particularly in section A, met the concerns of his delegation to a large extent.

His delegation believed that the criteria for the delimitation of ocean space between adjacent or opposite States must be the same for islands as for other land territories. Section B of document A/CONF.62/C.2/L.30 reflected a correct approach to the problem, and his delegation agreed that a colonial territory had a right to the resources of the territorial sea, the economic zone and continental shelf. That right was vested in the inhabitants of that territory and was to be exercised by them for their exclusive benefit. It should not be assumed, exercised, profited from or in any way infringed by a metropolitan or foreign Power administering or occupying the territory.

Mr. [illegible] (Fiji) said that the sponsors of the draft articles on islands and on territories under foreign domination or control (A/CONF.62/C.2/L.30) were all from States in the South Pacific vitally interested in the establishment of fair criteria for the delimitation of their territorial seas and economic zones. His own country was primarily an archipelagic State, but it also had three islands to which the draft articles should apply. The two that were inhabited - the islands of Rotuma - were situated more than 200 miles from the main archipelago and separated from the submarine platforms underlying it. The people of Rotuma depended for their protein requirements almost entirely on the fish they caught. The islands had little prospect of economic development other than by expanding their fishing industry. They had no continental shelf as such and consequently little shallow water to serve as fish-breeding grounds, and the islanders had to travel considerable distances to catch migratory species of fish.

Thus, the situation of the Rotuman people was almost idential with that of the peoples of Tonga, the Cook Islands and Western Samoa. His delegation maintained that the peoples of such islands and the other small island territories of the South Pacific which were still dependent upon other States for their economic existence should enjoy the same territorial sea and economic zone as might be fixed for any other land territory. Indeed, because of their isolation and dependence on their surrounding waters, they had a special interest which should be reflected in the Convention. His delegation supported the argument of Trinidad and Tobago that island States should receive special consideration.

The attempt to exclude uninhabited islands from the concept of the economic zone or even from having a territorial sea ran counter to article 10 of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone. To adopt any such proposals would be to impose an unjustifiable penalty on island States, particularly the small island territories of the South Pacific, all of which now enjoyed a territorial sea and contiguous zone around each of their islands and the right to explore and exploit the resources of the sea-bed and subsoil of the continental shelves of all their islands. No one had suggested that a continental State should be deprived of its sovereignty or economic rights in any of its uninhabited land areas.

(Mr. Nanden, Fiji)

There were several small island territories in the South Pacific which, while moving towards independence, were not yet sufficiently economically advanced to achieve that status. It was essential to the economic and political advancement of such territories that their peoples should enjoy full rights with regard to the economic zones and continental shelves belonging to their island territories. His delegation supported the argument set forth in the draft articles he had mentioned that such rights should be vested in the inhabitants of the territories to be exercised by them for their exclusive benefit. It also supported the proposal that there should be an international obligation on any metropolitan or foreign Power which might be administering or occupying such territories to ensure that such rights were in no way assumed, exercised or profited from or in any way infringed by the administering Power. Such an arrangement would help the territories to advance more rapidly to complete political and economic independence. Any other solution would lay them open to the plundering of their rightful resources; their transition to independence would be delayed and when they finally achieved that status they would succeed only to the crumbs that had escaped the depradations of distant-water operators.

Mr. ZELEYA (Nicaragua) emphasized the importance of the régime of islands, particularly for countries on the Caribbean such as Nicaragua.

The future régime should guarantee the protection and defence of the economic interests of the peoples of islands or groups of islands which were completely separate from any continental formation or coastal State, whether such islands were occupied by a State or constituted, or were about to constitute, independent States and regardless of their geomorphological formation.

The waters surrounding islands or groups of islands or archipelagos forming part of the continental shelf and therefore part of the territory of a coastal State, or islands situated within the 200-mile territorial sea or economic zone of a coastal State should be regarded as coastal State waters. Any disturbance of that logical order would be detrimental to the concept of the inherent rights of coastal States and must be rejected. Any benefit deriving from the rights established or recognized by the future Convention should go to the coastal State of which such islands formed a natural part. Occupation of such islands by a State other than the coastal State of which they

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(Mr. Zeleya, Nicaragua)

were a natural part or of whose economic zone they were an integral part, gave rise to special difficulties which must be dealt with in a spirit of equality and justice. The future Convention must not be made an instrument which allowed the colonizing Powers to benefit from their territorial conquests and annexations. It was necessary to establish a strong and effective régime to discourage any attempt at the use of force in international relations, particularly in those parts of the world which had been balkanized and broken up into groups of States which were often geographically disadvantaged.

Referring to the islands which were of special interest to Nicaragua, he reiterated the views expressed by his delegation at the 16th meeting of the Committee.

The problem of islands assumed particular importance in the context of the delimitation of boundaries between States, and the concept of what constituted "opposite States" required clarification, particularly in the Caribbean. In order to avoid any ambiguity that might lead to more injustice, clear criteria were needed. His delegation proposed the inclusion of the criterion of the direction and position of the coastline, of the case of non-adjacent States which shared a common continental shelf and were not separated by abyssal depths, and in the case of overlapping and continuous national zones measured from main coastlines which were less than 400 nautical miles apart.

The matter was serious in the case of the de facto occupation of islands by another State. Occupation by a State of territory situated more than 400 nautical miles from its borders and constituting part of the national zone of another State - particularly if the territorial stretch was discontinuous - was a different situation that should not be covered in the future Convention. In such cases, the title of the occupying Power to the continental shelf or territorial sea of colonized islands or archipelagos could not be held more valid than that of the coastal State from whose continental shelf or national zone they were taken. That was a logical and just criterion. The provisions of the new Convention should not be used to justify violation or occupation by a State of territory which under the terms of the same Convention would constitute part of the national zone of a coastal State.

For those reasons and others relating to the particular situation in the Caribbean his delegation had sponsored the draft article in document A/CONF.62/C.2/L.58. Having

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(Mr. Zeleya, Nicaragua)

studied the proposals submitted by other delegations on the item under consideration, it was of the view that the proposals in that document had the advantage of containing precise provisions which stipulated that conquest and colonial domination should not benefit the aggressor strategically or economically. His delegation hoped that that basic principle would be strengthened by further proposals from other delegations. He trusted that it would not be necessary to make further reference to the matter.

Mr. LAPOINTE (Canada) said his delegation, which attached great importance to the question of islands, shared many of the views expressed by the representative of Trinidad and Tobago. A basic principle in previous conventions was that islands too had a territorial sea and continental shelf, and that principle should be retained in any future convention. The sovereignty of a State could not be determined by the size of its population.

It was true that islands required special consideration, and while rocks or islets could often be disregarded, if they were going to be taken into account at all small isolated islets should be treated as generously as mainland territories. His delegation acknowledged that sometimes such islets should be given special treatment; it wondered, however, whether the Conference would be doing the correct thing in denying a mid-ocean rock or islet full jurisdiction over its 125,000 square-mile zone. Some islets were larger than many countries participating in the Conference and some islands were important to a State because of their historical links. Thus, while his delegation was in favour of the Convention providing for special circumstances, no arbitrary rules should be laid down.

Delimitation posed problems but the Convention could not be expected to solve them all. Those problems should be taken up in bilateral or multilateral negotiations, since the Convention could not be expected to provide rules of universal application.

Mr. TUNCEL (Turkey) said there were three important points that had to be borne in mind: firstly, islands had differing structures; secondly, the marine areas being established by the Conference would have to take into account a régime for islands; and thirdly, attention had been drawn to the importance of ensuring that the

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(Mr. Tuncel, Turkey)

international area, in other words the common heritage of mankind, was as large as possible. In view of those three points, there was a need to reconsider the whole issue of islands. Whereas the 1958 Conference had dealt with islands only in the limited context of the territorial sea, the present Conference would be dealing with very large marine areas. The maps and other materials available to members showed that the treatment to be accorded islands would cause large areas to cease to be part of the high seas, thereby reducing the extent of the common heritage of mankind. He therefore appealed to delegations that had reserved their position on the issue to reconsider their attitude in the light of new conditions.

Introducing the draft articles in document A/CONF.62/C.2/L.55, he said that although article 1 had been left blank, it was intended to draw attention to the fact that the future Convention must include an article giving definitions. As the representative of Colombia had pointed out, the enigmatic definitions of the Geneva Convention must be clarified. Although his delegation had not pressed its proposal, first put forward in the Sea-Bed Committee, calling for a study of islands with standard definitions which would form the basis of the definitions in the Convention, it was still convinced that such a study would be useful. Article 2 was not intended to deny the extension of a State's jurisdiction to islands; the question involved was the determination of the marine spaces of islands. Article 3 was an effort to establish criteria for the allocation of areas to islands, although he appreciated the difficulties in seeking objective and unambiguous criteria. Paragraph 1 of that article dealt with the situation of islands under foreign domination, bearing in mind that the inhabitants of such islands must not be deprived of the resources of economic zones required to meet their economic and social needs. However, the inhabitants must decide for themselves. Paragraph 2 of article 3 took into account the delicate question of the islands of the continental shelf of his own country. Population and area ratios must be taken into account in allocating ocean space. Paragraph 3 of the article was based on the criterion of economic life. It had to be borne in mind that there were some islands which were without any form of economic or social life. In that connexion he observed that navigation rights and military and police installations were not sufficient justification for establishing an economic zone. Paragraph 4 of article 3 followed the example of the Geneva Convention by denying marine space to rocks and low-tide elevations.

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Mr. LISTRE (Argentina) introduced the draft article on item 19 (a) submitted by his own and a number of other delegations in document A/CONF.62/C.2/L.58. Its purpose was to ensure that in pursuing its task of striving for a balance between the interests of States individually and of the international community as a whole in the law of the sea, the Conference did not include the interests of those who were trying to perpetuate illegal colonial domination or occupation of islands or territories. Those interests, which had been rejected by the majority of the international community, could affect both the territorial integrity of other States and the right to self-determination of subject peoples. The Conference should bear both those cases in mind, in order to prevent the colonial or occupying Powers from adding a new element to their illegitimate interests in the islands and territories in question.

There was clearly a majority trend in favour of extending the traditional jurisdiction of the coastal State recognized under the old law of the sea. Those who supported such an extension had stressed the essentially economic basis of their claims. They were mainly developing countries, concerned with the struggle against colonialism. It would be illogical to allow their maritime claims to be used by the colonial or occupying Powers as a further pretext for maintaining their domination or occupation over islands or territories that did not belong to them.

The wording of the draft made it clear that the colonial or occupying Powers should not enjoy the benefits derived from the Convention at the expense of the needs and interests of the indigenous people of the islands or territories. That provision would not, of course, apply where the inhabitants were nationals or descendants of nationals of the colonial Power. In the case of foreign occupation of islands or territories belonging to another State, the draft would not deprive the latter State of its rights of maritime jurisdiction in respect of the occupied part of its territory. In short, the sponsors had sought to ensure that the draft article could not be misapplied so as to worsen the already grievous situation of peoples suffering under colonialism. The reference at the end of the draft article to the duration of colonial domination or foreign occupation would, he hoped, meet the concern of the representative of Trinidad and Tobago.

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(Mr. Listre, Argentina)

Although a number of other proposals had been submitted to the Conference, based on similar anti-colonialist principles, he considered that the proposal he was introducing was the most satisfactory. The draft articles on the economic zone in document A/CONF.62/C.2/L.38 would deprive the colonial Power only of rights in the economic zone, whereas the draft article he was presenting deprived the colonial Power of all rights recognized or established by the future convention on the law of the sea.

The four-Power proposal in document A/CONF.62/C.2/L.30 was concerned with perhaps the commonest situation, in which a colonial Power prevented the indigenous people from freely expressing their will with respect to independence, but not with the case of a territory which belonged to a certain State and was unlawfully occupied by another State. Moreover, while it deprived the metropolitan or foreign Power of rights over the resources of the economic zone and the continental shelf, it said nothing about other rights.

The same applied to the proposals by Turkey in document A/CONF.62/C.2/L.55.

The Declaration of the Organization of African Unity (A/CONF.62/33) stipulated in section C, paragraph 10, that "nothing in the propositions set herein should be construed as recognizing rights of territories under colonial, foreign or racist domination to the foregoing;" but section C concerned the exclusive economic zone and the provision could therefore be interpreted as referring only to the rights of the coastal State in that zone.

The draft article of which his delegation was a sponsor was based on the principles of the United Nations Charter, on General Assembly resolution 1514 (XV) containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, on the work of the Special Committee of 24 and on the many regional declarations made by the Latin American countries in the same spirit as those of the African and Asian peoples. He hoped that it would hasten the end of colonialism.

Mr. KOH (Singapore) said the Conference must consider whether all islands must be treated in exactly the same way as other land territories and be accorded a right to establish economic zones. The rationale for the proposal that coastal States should have the right to establish an economic zone was essentially based upon the interests of the people and the desire to marshal the resources of ocean space for their

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(Mr. Koh, Singapore)

development. His delegation accepted that rationale in principle and therefore believed that island States should be entitled to establish an economic zone in the same way as continental coastal States. In the case of a non-self-governing territory, the rights over the economic zone should be exercised exclusively for the benefit of the people of the territory and not for the benefit of the administering Powers. On that point he agreed with the proposal contained in document A/CONF.62/C.2/L.30, whose sponsors he complimented for their constructive efforts. However, it would be unjust, and the common heritage of mankind would be further diminished, if every island, irrespective of its characteristics, was automatically entitled to claim a uniform economic zone. Such an approach would give inequitable benefits to coastal States with small or uninhabited islands scattered over a wide expanse of the ocean. The economic zone of a barren rock would be larger than the land territory of many States and larger than the economic zones of many coastal States.

If the common heritage of mankind was to be preserved, special provisions must be drafted to deal with the problem. Clearly, some criteria must be devised to differentiate between islands that deserved an economic zone and those that did not. A scheme of graduated breadths of the economic zone for different types of islands might also be considered.

Mr. THEODOROPOULOS (Greece) said that he was speaking on the question of the régime of islands, not with the intention of claiming additional maritime space, but out of concern for the preservation and integrity of his country's national territory and for equality of treatment for all parts of his country and all its citizens. Greece was a mountainous, deeply indented and resource-poor continental body flanked by two archipelagos; about a quarter of the total land area of the country was islands, accounting for about 15 per cent of the total population. The islands formed an intrinsic geographic, economic and political unit with the continental body of Greece, the distance between them not exceeding 42 nautical miles, and they were also part of Greece historically and culturally.

He introduced the draft articles contained in document A/CONF.62/C.2/L.50, which referred exclusively to item 19 (b) of the list of items. With regard to item 19 (a), he

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(Mr. Theodoropoulos, Greece)

supported the views expressed in document A/CONF.62/C.2/L.30. The intention of the draft articles submitted by his delegation was to secure for islands the same treatment, with regard to maritime zones, as for the continental territory. That view was also reflected in the draft articles in documents A/CONF.62/C.2/L.22, L.25, and L.32. That fundamental right of islands was universally accepted as a general rule under existing international customary and conventional law, subject, of course, to any adjustments agreed upon in bilateral or regional instruments.

Examining the validity of the claim of islands to possess a territorial sea equal in breadth to that of the continental territory of the State to which they belonged, he noted that the essential function of the concept of the territorial sea in law was to extend the national land territory over a certain limited maritime area, mainly for reasons of national defence and security. The territorial sea was thus the attribute of sovereignty over the territory and represented the maritime frontier of each State. Such a frontier was clearly essential, and in cases of adjacent or opposite States special measures of delimitation, such as the median line, would apply. It would therefore, he felt, be proper, if not indispensable, to give islands the same right as continental territories to a territorial sea. Some representatives, however, rejected that view, claiming that islands should not be permitted to extend their territorial sea to a uniform breadth of 12 nautical miles in order not to infringe upon their neighbours' maritime zones; that practice, which was unfortunately being arbitrarily applied in some cases, meant that islands should allow the seas surrounding them to be explored and exploited by their continental neighbours.

Another fallacious argument was put forward in connexion with the question of the continental shelf, whereby islands were represented as having no shelf of their own. It should be borne in mind that continents and islands were part of the one earth crust, except for rare abnormalities, and therefore had a common shelf in nature and should have a common shelf in law as well.

The concept of the economic zone related directly to the economy of islands; it could not be denied that an island's economic life was sea-oriented, which meant that islands had a more pronounced need for maritime space. Some delegations, however, regarded islands as situated in the economic zone or on the continental shelf of other States, which implied that islands had no rights whatsoever. That reasoning could be reversed to prove that the opposite continental coast was situated in the economic zone

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(Mr. Theodoropoulos, Greece)

of the island. It should be accepted that both islands and continental coasts did exist and were entitled to do so, unless they were invaded and their inhabitants bombed out or otherwise annihilated - which seemed to be the way of dealing with the problem these days. To deprive islands of the rights accorded to them under contemporary customary and conventional law and to try to apply various criteria to determine if they were eligible to be regarded as islands would reduce their status.

With regard to the question of definitions, he recalled that many representatives had stressed the need for clear-cut unambiguous rules for defining archipelagos and archipelagic waters, and suggested that the same need was felt with regard to islands. The proposals before the Committee suggested a number of criteria all of which were arbitrary: some recommended that an island must be one tenth of the surface of the State to which it belonged, or account for one tenth of the total population, while others recommended that it should be no more than a certain distance from the State, and still others recommended a geological criterion. The general rule of the equality of islands and continental territories would, if such definitions were accepted, become the exception, while special circumstances might become the general rule if it was accepted that islands were by definition "special circumstances".

Speaking in more general terms, he noted that the basic trend of the Conference was towards a considerable enlargement of the authority of States over the seas. That was reflected in the establishment of the international area as the common heritage of mankind, in the extension of national jurisdiction over the economic zone, in the widening of the territorial sea to 12 nautical miles, and in special arrangements for archipelagic waters. Very pertinent remarks had been made about the need for equal treatment for all parts of a State's territory in support of the idea that archipelagos, both oceanic and coastal, should be given more favourable treatment; he indeed saw no reason to distinguish between oceanic and coastal archipelagos since the geographical factors involved were the same. There was, moreover, a wide consensus that all States, including land-locked and other geographically disadvantaged countries, should work together as partners. It seemed odd that one part of the earth, islands, should not benefit from that trend and should even lose their rights under existing law and

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(Mr. Theodoropoulos, Greece)

practice. He was not pleading for increased rights or special privileges for islands, but was simply proposing that insular populations should be on an equal footing with others and not deprived of their existing rights under international law.

Mr. ABBADI (Secretary of the Committee) announced that Peru and Morocco had become sponsors of document A/CONF.62/C.2/L.58.

The meeting rose at 1.10 p.m.